

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X Case No.: 12-CV-5447(SLT)  
MORDECHAI PALACE AND CHAVA LEZELL, on behalf  
of themselves and all other similarly situated consumers,

Plaintiffs,

-against-

ALLIED INTERSTATE, INC.,

Defendant.

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**MOVING PARTY ALLIED INTERSTATE LLC F/K/A  
ALLIED INTERSTATE INC.'S STATEMENT  
OF MATERIAL FACTS PURSUANT TO LOCAL RULE 56.1**

Defendant, Allied Interstate, LLC f/k/a Allied Interstate Inc. ("Allied"), submits this statement of material facts pursuant to Local Rule 56.1 of the United States District Court for the Eastern District of New York, in support of its motion for partial summary judgment dismissing the complaint of Mordechai Palace and Chava Lezell (collectively "plaintiffs"). Allied contends there are no genuine issues to be tried with respect to the following material facts:

1. The telephone number at issue with respect to plaintiffs' Telephone Consumer Protection Act, 47 U.S.C. § 227 ("TCPA") claim is (845) 474-0269.
2. Plaintiffs have no documents demonstrating that the telephone number (845) 474-0269 is for a cellular telephone service, paging service, specialized mobile radio service or other radio common carrier services, as defined in the TCPA.
3. The telephone number (845) 474-0269 is shown as a landline on a telephone directory listing.

4. Plaintiffs do not have any documents from Page One Wireless concerning the (845) 474-0269 telephone number.

5. Plaintiffs do not have any documents to demonstrate that they incurred any charges for calls placed by Allied to the (845) 474-0269 telephone number.

Dated: New York, New York  
May 30, 2013

HITCHCOCK & CUMMINGS, LLP

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